

**Introduced by Senator Dunn**  
(Coauthor: Assembly Member Arambula)

February 16, 2005

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An act to amend Section 65589.4 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 326, as introduced, Dunn. Land use: housing elements.

Existing law requires a multifamily residential housing project to be a permitted use, not subject to a conditional use permit, on any parcel zoned for multifamily housing if at least certain percentages of the units are available at affordable housing costs to very low income, lower income, and moderate-income households for at least 30 years and if the project meets specified conditions. Among those conditions are that the project is subject to a discretionary decision, other than a conditional use permit, and a negative or mitigated negative declaration has been adopted for the project under the California Environmental Quality Act (CEQA). Existing law permits the negative or mitigated negative declaration to be adopted only after a public hearing to receive comments on that declaration if a public hearing is not held with respect to the discretionary decision.

This bill would delete "multifamily" and instead provide that a housing development that is proposed to be placed on a parcel zoned for multifamily or single family use is not subject to a conditional use permit on any parcel zoned for housing, if the existing percentages of the units are available at affordable housing costs to very low income, lower income, and moderate-income households for at least 30 years and if the project meets specified conditions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 65589.4 of the Government Code is amended to read:

65589.4. (a) A ~~multifamily~~~~—residential~~ housing ~~project~~~~development~~ shall be a permitted use not subject to a conditional use permit on any parcel zoned for ~~multifamily~~ housing if it satisfies the requirements of subdivision (b) and either of the following:

(1) The ~~project~~ *housing development* satisfies the criteria of Section 21159.22, 21159.23, or 21159.24 of the Public Resources Code.

(2) The ~~project~~ *housing development* meets all of the following criteria:

(A) The ~~project~~*housing development* is subject to a discretionary decision other than a conditional use permit and a negative declaration or mitigated negative declaration has been adopted for the ~~project~~ *housing development* under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). If no public hearing is held with respect to the discretionary decision, then the negative declaration or mitigated negative declaration for the project may be adopted only after a public hearing to receive comments on the negative declaration or mitigated negative declaration.

(B) The ~~project~~ *housing development* is consistent with both the jurisdiction's zoning ordinance and general plan as it existed on the date the application was deemed complete, except that a ~~project~~ *housing development* shall not be deemed to be inconsistent with the zoning designation for the site if that zoning designation is inconsistent with the general plan only because the project site has not been rezoned to conform with ~~a more recently~~ *the most recent* adopted general plan.

(C) The ~~project~~ *housing development* is located in an area that is covered by one of the following documents that has been adopted by the jurisdiction within five years of the date the application for the ~~project~~ *housing development* was deemed complete:

(i) A general plan.

1 (ii) A revision or update to the general plan that includes at  
2 least the land use and circulation elements.

3 (iii) An applicable community plan.

4 (iv) An applicable specific plan.

5 (D) The ~~project~~ *housing development* consists of not more  
6 than 100 residential units with a minimum density of not less  
7 than 12 units per acre.

8 (E) The ~~project~~ *housing development* is located in an  
9 urbanized area as defined in Section 21071 of the Public  
10 Resources Code or within a census-defined place with population  
11 density of at least 5,000 persons per square mile or, if the project  
12 consists of 50 or fewer units, within an incorporated city with a  
13 population density of at least 2,500 persons per square mile and a  
14 total population of at least 25,000 persons.

15 (F) The ~~project~~ *housing development* is located on an infill site  
16 as defined in Section 21061.0.5 of the Public Resources Code.

17 (b) At least 10 percent of the units of the ~~project~~ *housing*  
18 *development* shall be available at affordable housing cost to very  
19 low income households, as defined in Section 50105 of the  
20 Health and Safety Code, or at least 20 percent of the units of the  
21 housing development shall be available at affordable housing  
22 cost to lower income households, as defined in Section 50079.5  
23 of the Health and Safety Code, or at least 50 percent of the units  
24 of the housing development available at affordable housing cost  
25 to moderate-income households, consistent with Section 50052.5  
26 of the Health and Safety Code. The developer of the ~~project~~  
27 *housing development* shall provide sufficient legal commitments  
28 to the local agency to ensure the continued availability and use of  
29 the housing units for very low, low-, or moderate-income  
30 households for a period of at least 30 years.

31 (c) Nothing in this section shall prohibit a local agency from  
32 applying design and site review standards in existence on the  
33 date the application was deemed complete.

34 (d) The provisions of this section are independent of any  
35 obligation of a jurisdiction pursuant to subdivision (c) of Section  
36 65583 to identify multifamily sites developable by right.

37 (e) This section does not apply to the issuance of coastal  
38 development permits pursuant to the California Coastal Act  
39 (Division 20 (commencing with Section 30000) of the Public  
40 Resources Code).

1    *(f) This section does not relieve a public agency from*  
 2    *complying with the California Environmental Quality Act*  
 3    *(Division 13 (commencing with Section 21000) of the Public*  
 4    *Resources Code).*

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7    **CORRECTIONS:**

8    **Heading Authors line 2.**

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